

### REMARKS

The amendments set out above and the following remarks are believed responsive to the points raised by the Office Action dated July 15, 2008. Reconsideration is respectfully requested.

Claim 11 has been canceled, and claims 1-10 and 12-27 remain pending. Claims 1-7, 19, and 20 have been withdrawn from consideration. Claim 28 is added by this amendment. No new matter has been added, the basis for the new claim may be found within the original specification, claims and drawings.

Several changes have been made in the specification to improve its form. These changes are essentially editorial in nature and do not constitute the addition of new matter.

The drawings were objected to under 37 CFR 1.83(a) as not showing every feature of the invention specified in the claims. Figure 4 has been amended to identify the notches on the tucking flaps which were originally shown but not identified by reference number. Accordingly, it is respectfully submitted that the rejection has been overcome.

The disclosure was objected to because of the use of the same reference number for different parts, i.e. "lugs 62" and "storage area 62" (on page 6, [0026]). The specification has been amended the correct the typographical error to correctly identify the storage area as "storage area 64". Accordingly, it is respectfully submitted that the rejection has been overcome.

Claims 8-10, 13, 14 and 16 were rejected under 35 U.S.C. §102 as anticipated by U.S. Patent No. 3,498,022 to Godet (hereinafter referred to as "Godet '022"). The rejection is respectfully traversed.

The present claims are directed to a system including, *inter alia*, a staging device for sequentially collecting food items into a plurality of groups, each of said groups having a plurality of food items, and for displacing said plurality of groups substantially downwardly. Thus, the presently claimed staging device sequentially collects a plurality of groups and each group has a plurality of food items. For example, Figure 4 of the present application shows staging area 48 configured to collect three discrete groups of food items 52, 54, 56, each group containing five food items.

According to the Office Action, Godet '022 discloses "a system comprising: a staging device (1) for sequentially collecting food items (21) into a plurality of groups substantially downwardly". Applicants respectfully point out that Godet '022 does not disclose a staging device

for collecting food items *into a plurality of groups, each of said groups having a plurality of food items*. Rather, the alleged staging device (1) of Godet '022 merely collects a single supply i.e. a single group of products (see e.g. Figure 1 of Godet '022). There is simply no teaching or suggestion in Godet '022 of a staging device for collecting food items into a plurality of groups, each group having a plurality of food items.

Furthermore, the presently claimed system includes, *inter alia*, an accumulating and storage device for receiving said groups substantially simultaneously from said staging device, thereby sequentially forming successive layers of groups of said food items in an accumulating and storage area, and for displacing a predetermined number of received layers of said groups downward substantially simultaneously. For example, Figure 4 of the present application shows accumulating and storage device 62 configured to receive the plurality of groups (52, 54, 56) of food items and sequentially form successive layers of groups.

According to the Office Action, Godet '022 discloses "an accumulating and storage device (5) for receiving the groups substantially simultaneously from the staging device, and sequentially forming successive layers simultaneously". Applicants respectfully point out that the alleged accumulating and storage device (5) is *not* configured to receive *a plurality of groups* substantially simultaneously or to sequentially form successive layers of groups of said food items. Rather, the intermediate storage receptacle (5) of Godet '022 is merely configured to receive a single group of products that fall and land randomly. There is simply no suggestion in Godet '022 of receiving a plurality of groups, let alone of receiving a plurality of groups substantially simultaneously or of sequentially forming successive layers of groups of food items.

Accordingly, for at least these reasons Godet '022 cannot anticipate the system claimed in claim 8, and thus the rejection cannot be maintained.

Dependent claims 13, 14, and 16 are also allowable, not only because they depend from novel and non-obvious independent claim 8, but they also define limitations not taught by Godet '022. For example, Godet '022 fails to disclose *a pair of laterally reciprocating rods* as defined in claim 13 that *support said groups thereon and displace sidewardly to allow said groups to fall downwardly*. The alleged laterally reciprocating rods (14, 15) identified in the Office Action are rotating rollers fitted to the leading edges of plates (8, 9), and are oriented such that their axes are parallel to the axes of the products (see e.g., col. 2, lines 60-68) . These rotating rollers do not

*support a plurality of groups of food items* (indeed, nothing in Godet '022 supports a *plurality of groups of food items*) or allow the groups to fall as a result of their sideways displacement. Godet '022 also fails to disclose an accumulating and storage area including *a plurality of dividers positioned to direct said groups and maintain said groups intact and aligned as said groups fall from said staging area* as defined in claim 14. The alleged dividers (8, 9) of Godet '022 are plates that close off the outlet to the intermediate storage receptacle to allow the container to be replaced. The plates 8, 9 do not direct groups in the storage area or maintain groups of items intact and aligned as they fall from the staging area. As pointed out above, Godet '022 is not configured to handle a plurality of groups of items. Thus, the plates 8, 9 of Godet '022 are not configured to direct groups or maintain groups of items intact and aligned as they fall. Godet '022 also fails to disclose a controller for controlling the staging device, accumulating and storage device and the packing device as defined in claim 16. The Office Action merely asserts that it "is construed that Godet system comprising a controller in order to synchronize the timing of all movements in the system". However, the Office Action provides no support for this position. Godet '022 makes no mention of a control system at all. In order to anticipate a claim, a reference must disclose each and every limitation in that claim. Since Godet '022 does not even mention a control system, Godet '022 simply cannot anticipate claim 16.

Claims 8-10, 12-16, 21, and 23 were rejected under 35 U.S.C. §102 as anticipated by U.S. Patent No. 3,445,986 to Godet (hereinafter referred to as "Godet '986"). This rejection is respectfully traversed.

According to the Office Action, Godet '986 discloses a staging device (1), an accumulating and storage device (4) for receiving the groups substantially simultaneously from the staging device, and sequentially forming successive layers simultaneously; the accumulating and storage device including a plurality of dividers (5) positioned to direct the groups and maintain the groups intact and aligned as the group fall from the staging device; and a packing device (6). Applicants respectfully disagree.

Contrary to the assertion in the Office Action, Godet '986 does not disclose an accumulating and storage device for receiving *groups substantially simultaneously* from the staging device. The products of Godet '986 fall sequentially into the feed-hopper (4) at the end of the belt (1), i.e., one product after another falls into the hopper as it reaches the end of the

conveyor. In contrast, the presently claimed system includes a staging device configured to collect the items into a plurality of groups (e.g., 52, 54, 56 in Figure 4) and an accumulating and storage device for receiving the groups substantially simultaneously (e.g. 64 in Figure 4). Thus, in the presently claimed system the accumulating and storage device receives *a plurality of groups of food items* substantially simultaneously; and as in claims 14 and 23-25, the accumulating and storage device further includes a plurality of dividers (see e.g. 66 in Figure 4) to direct the groups and maintain the groups intact and aligned as the groups fall from the staging area. The alleged dividers (5) in Godet '986 are simply rotatable flaps that open and close the bottom of the feed hopper (4) and they are not positioned to maintain a plurality of groups of items intact and aligned, i.e. maintain the items in their respective groups. Indeed, the system of Godet '986 does not handle products organized into a plurality of groups. Furthermore, the products in Godet '986 do not sequentially form successive layers in the alleged accumulating and storage device (4) but rather form a random jumble of products in a single group. Accordingly, for at least these reasons Godet '986 cannot anticipate or suggest the system of the present claims, and thus, the rejection cannot be maintained.

Dependent claims 12, 13, 14, and 15 are also allowable, not only because they depend from novel and non-obvious independent claim 8, but they also define limitations not taught by Godet '986. For example, Godet '986 does not disclose a staging device including a pair of laterally reciprocating rods as in dependent claim 12 (and independent claim 25) whereby said rods . . . *displace sidewardly to allow said groups to fall downwardly by gravity*. The alleged reciprocating rods (3) of Godet '986 merely are support rods extending beneath the conveyor (1) and do not comprise reciprocating rods and do not displace sidewardly to allow groups of items to fall. Rather, the items of Godet '986 simply come to the end of the support and fall into the hopper (see e.g., Godet '986 col. 3, lines 44-45). Godet '986 also fails to disclose an accumulating device including a pair of laterally reciprocating rods as in dependent claim 13 (and independent claim 24) *whereby said rods support the groups and displace sidewardly to allow the groups to fall downwardly to the packing area*. The alleged rods connected to device 33 in godet '986 are merely linkages to control the rotation of axis 30 by cylinder 33. These alleged rods do not comprise reciprocating rods and do not displace sidewardly. With respect to dependent claim 14 (and independent claims 23-25), as explained above, the plates (5) of Godet '986 are not dividers

and are not positioned to maintain a plurality of groups of items intact and aligned as they fall downwardly into the accumulating and storage area. Finally, Godet '986 does not disclose a packing device including a receptacle having a plurality of separators dividing the receptacle into cavities, as in claim 15. The Office Action refers to column 3, lines 1-3 of Godet '986 which discloses "The compartments 6 of one row of successive containers . . .". However, as seen in Figure 1, compartment 6 is a single compartment and *is not* divided into cavities by a plurality of separators. Indeed, Godet '986 does not even mention separators in the containers or dividing the containers into cavities, but rather teaches a container having a single compartment. Accordingly, it is respectfully requested that the rejections of these claims be withdrawn.

Claims 17, 18, 22, 26 and 27 were rejected under 35 U.S.C. §103(a) as being unpatentable over Godet '986 in view of Godet '022. This rejection is respectfully traversed.

Claims 17, 22, and 26 define a pair of rotatable tucking flaps shaped to rotate downwardly into said packing area. The alleged rotatable tucking flaps of Godet '022 merely comprise arms (10, 11) connected to plates (8, 9) that pivot towards one another to allow the plates to close off the outlet to the intermediate receptacle. The arms 10, 11 are not shaped to rotate downwardly *into the packing area* and do not ensure that layers of items fall into the cavities in proper alignment. The arms 10, 11 of Godet '022 also do not include notches shaped to provide clearance for the separators thereby allowing the flaps to rotate below horizontal into the cavities (as in claims 18 and 27). As pointed out above, the arms 10, 11 do not rotate below horizontal into the packing area, and the containers of Godet '022 and Godet '986 do not include separators. Accordingly, neither Godet '022 nor Godet '986 can anticipate or suggest the system of claims 18 and 27, and thus, the rejection cannot be maintained.

In view of the amendment and remarks recited herein, the application is considered in good and proper form for allowance, and the Examiner is respectfully requested to pass this application to issue.

If, in the opinion of the Examiner, a telephone conference would expedite the prosecution of the subject application, the Examiner is invited to call the undersigned attorney.

It is believed that no fees are due with this submission. Should that determination be incorrect, then please debit Account No. 50-0548 and notify the undersigned.

Respectfully submitted,

A handwritten signature in black ink that reads "Shannon D. Schemel". The signature is written in a cursive style with a large, looped 'S' at the beginning.

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